

REMARKS

The application has been amended to place it in condition for allowance at the time of the next Official Action.

Claims 1-9 were previously pending in the application. Claims 1, 5, 8 and 9 are canceled; leaving claims 2-4, 6 and 7 for consideration.

Applicant notes with appreciation the indication that claims 6 and 7 are allowable. In reliance thereon, claim 6 is rewritten in independent form including intermediate claim 5.

Canceling claims 1, 5, 8 and 9 is believed to obviate the rejection of these claims under 35 USC 102(e) as being anticipated by BOLGER et al. 6,770,096.

Claims 2-4 were rejected under 35 USC 103(a) as being unpatentable over BOLGER in view of FERREE U.S. Publication No. 2005/0261773. That rejection is respectfully traversed.

At first blush, FERREE appears to be a valid prior art reference based on Provisional Application No. 60/378,132 filed on May 15, 2002 and Continuation-in-part Application No. 10/413,028, which was filed on April 14, 2003.

However, applicant has obtained a file history of these applications and note that paragraphs [0032]-[0034] of the present FERREE publication which were relied upon for the present rejection, were added as well as additional drawings as part of C-I-P application No. 10/413,028 on April 14, 2003.

In view of this, FERREE is only entitled to the date of April 14, 2003 as his earliest date with respect to the subject matter discussed in these passages. Applicant claims priority to French Application No. FR 02/14080, which was filed on November 12, 2002 and which antedates the earliest date for which FERREE is entitled with respect to the recited subject matter.

Applicant submits herewith an accurate English translation of the French priority document to perfect the claim to priority and remove FERREE as a prior art reference.

As FERREE is unavailable as prior art as to the subject matter of claim 2, the rejection of claim 2 cannot be maintained.

Claims 3 and 4 depend from claim 2 and are believed to be patentable at least for depending from an allowable independent claim.

As the claims remaining in the application are indicated as allowable or are believed to be allowable based on the priority date, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The following item is attached as an appendix:

- an accurate English translation of French priority document  
FR 02/14080 including attestation to the accuracy.